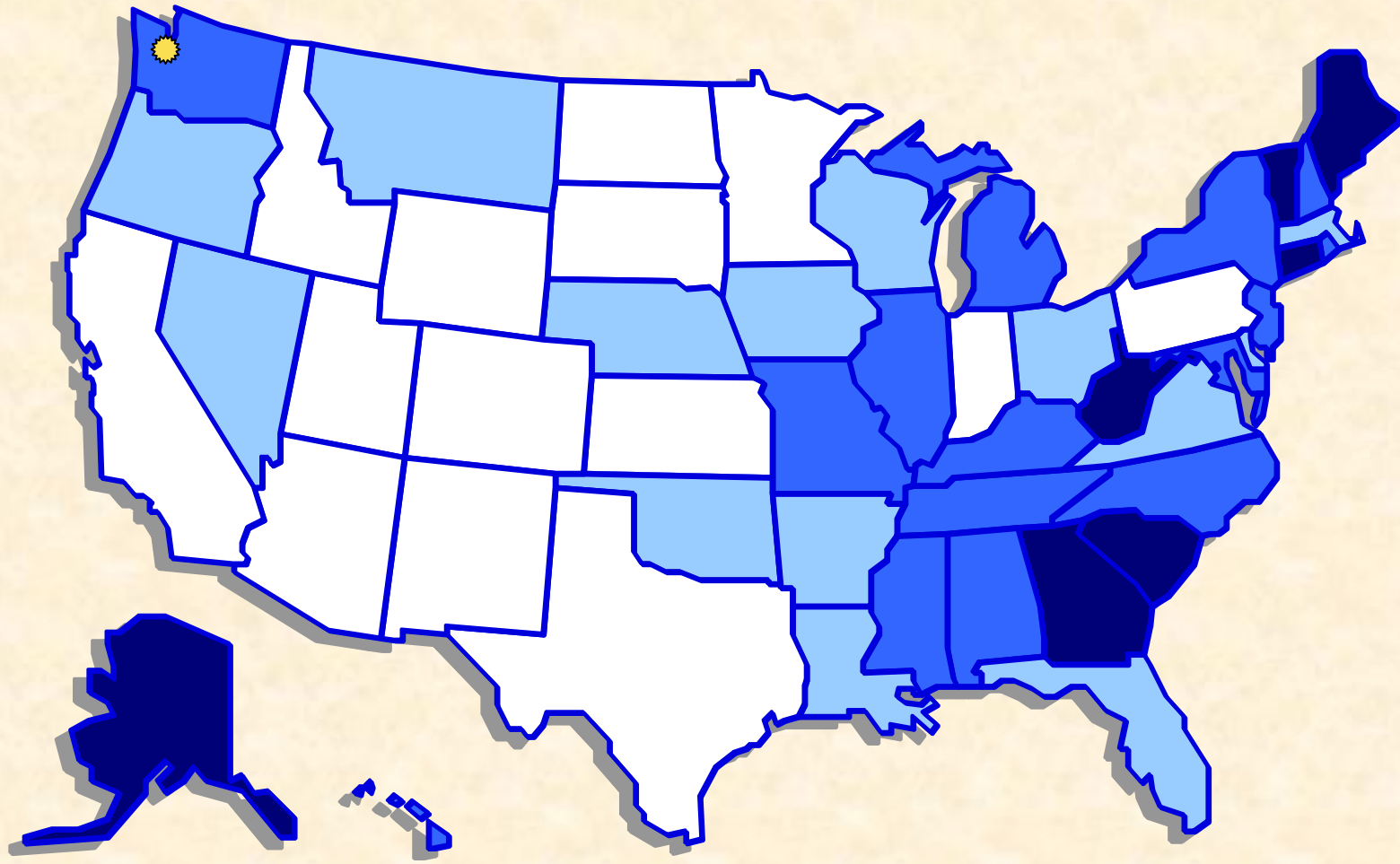


National CON Perspective and Experience

Elements of Effective Regulation



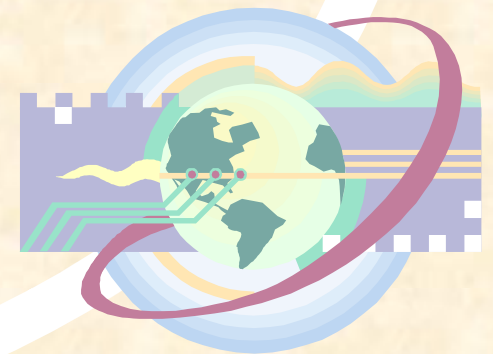
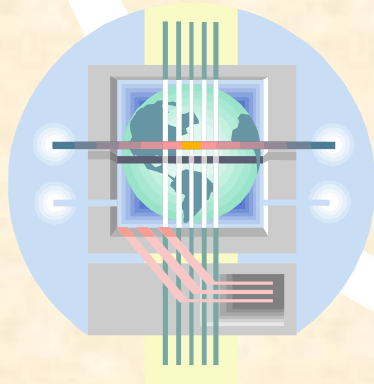


in acknowledgement of and appreciation for
all of the Certificate of Need programs in the United States

Thomas R. Piper

Principal, MacQuest Consulting

a presentation to the
Washington State
CON Technical Advisory Committee
Tuesday, March 16, 2005





Elements of Effective CON Regulation

- **Who** (the CON decision-makers)
- **How** (the process of decision making)
- **What** (factors considered in making the decision)
- **When** (decision making timeframes and considerations)
- **Where** (venues and methods for decision making)
- **Why** (rationale and impact for decisions)

The CON Matrix of 2005 Relative Scope and Review Thresholds: CON Regulated Services by State

(this information is summarized from the 2005 National Directory of Health Planning, Policy and Regulatory Agencies, the fifteenth edition published by the American Health Planning Association, also see map)

Rank (no. of svcs. x weight)	Categories	Acute Care	Air Ambulance	Amb Surg Ctrs	Burn Care	Business Cmpnts	Cardiac Cath.	CT Scanners	Gamma Knives	Home Hlth	ICF/MR	Lithotripsy	Long Term Care	Med Off Bldg	Mobile Hi Tech	MRI Scans	Neo-natl Int Care	Obstetric Svcs	Open Heart Svcs	Organ Transplant	PET Scans	Psychiatric Svcs	Rad Therapy	Rehab	Renal Dialysis	Res Care Fac	Subacute	Substance Abuse	Swing Beds	Ultrasound	Other (items not otherwise covered)	Count (no. of svcs.)	compiled by Thomas R. Piper Missouri CON program Jefferson City, MO 573-751-6403 \$ nrsg hrm/hosp			
																																	Reviewability Thresholds			
																																	Capital	Med Equip	New Svc	Weight
28.8	Connecticut																														24	1,000,000	400,000	0	1.2	
26.0	Alaska																														26	1,000,000	1,000,000	1,000,000	1.0	
24.2	Georgia																														22	1,322,151	734,695	any	1.1	
22.5	Vermont																														25	3.0/1.5M	1,000,000	500,000	0.9	
21.6	Maine																														24	2,400,000	1,200,000	110,000	0.9	
20.7	West Virginia																														23	2,000,000	2,000,000	23 svcs	0.9	
20.0	South Carolina																														20	2,000,000	800,000	1,000,000	1.0	
18.4	North Carolina																														IC & other	23	2,000,000	750,000	n/a	0.8
17.0	Mississippi																														hospice, meth	17	2,000,000	1,500,000	any	1.0
16.8	Tennessee																														21	2,000,000	1,500,000	any beds	0.8	
16.8	Dist. of Columbia																														24	2,500,000	1,500,000	800,000	0.7	
16.0	Kentucky																														Mobile svcs	20	1,951,612	1,951,612	n/a	0.8
15.2	Rhode Island																														19	2,000,000	1,000,000	750,000	0.8	
15.0	New York																														25	3,000,000	3,000,000	any	0.6	
15.0	Hawaii																														25	4,000,000	1,000,000	any	0.6	
14.4	Maryland																														fed. swing bed	16	1,800,000	n/a	any	0.9
14.4	Michigan																														Hosp & Surg	18	2,500,000	any	any clin.	0.8
12.8	Washington																														Hospice	16	var. by svc.	n/a	any	0.8
12.6	New Hampshire																														14	1,952,870	400,000	any	0.9	
12.1	New Jersey																														11	1,000,000	1,000,000	any	1.1	
11.4	Alabama																														ESRD & LIC	19	4,108,000	2,054,000	any	0.6
10.4	Missouri																														New hosp.	13	0.6M/1.0M	0.4M/1.0M	1,000,000	0.8
9.0	Illinois																														Other	18	6,732,798	6,425,245	any	0.5
8.1	Iowa																														9	1,500,000	1,500,000	500,000	0.9	
8.0	Virginia																														MSL SPECT	20	5,000,000	n/a	n/a	0.4
7.0	Oklahoma																														psych. chem.	5	500,000	n/a	any beds	1.4
6.3	Montana																														7	1,500,000	n/a	150,000	0.9	
6.3	Florida																														Hospice	9	none	none	none	0.7
6.0	Arkansas																														5	500,000	n/a	n/a	1.2	
4.8	Massachusetts																														ECMO	16	12,004,549	1,280,485	all	0.3
4.8	Delaware																														liming cts.	8	5,000,000	5,000,000	n/a	0.6
4.4	Wisconsin																														Other	4	1,000,000	800,000	any LTC	1.1
3.5	Nevada																														7	2,000,000	n/a	n/a	0.5	
2.4	Oregon																														2	any LTC/hr	n/a	LTC/hrsp	1.2	
0.5	Ohio																														1	2M renov	n/a	n/a	0.5	
0.4	Nebraska																														2	n/a	n/a	LTC >10%	0.2	
0.4	Louisiana																														2	n/a	n/a	LTC/MR	0.2	

Disclaimer: Rank order relates to volume of items reviewed, NOT intensity of analysis or conclusions which are based on Criteria and Standards and decisions

Source: Updated January 19, 2005, using most recent information available



WHO: the CON Decision-Makers

- **The Buck Stops Where . . .**
 - certificate of need analyst
 - department head
 - commission
 - context (*organizational location of decision-maker*)
- **Ex parte Contact** (*“from (by or for) one party”*)
 - influencing vs. educating
 - competitive vs. cooperative interests
- **Process Advisors**
 - local planning agencies (HSAs, zoning, etc.)
 - business groups/associations
 - other state agencies (Medicaid, licensing, etc.)



HOW: the Process of Decision Making

- **State Health Plan** (*aka Strategic Plan*)
 - comprehensive perspective
 - vision of the future (*what should or could be*)
- **Medical Facilities Plan** (*criteria and standards*)
 - appendix to or subset of State Health Plan
 - definitive analytical tool for proposal evaluation
 - CON rules and regulations
 - measurable performance guidelines (*max. & min.*)
- **Health Policy Statements** (*governor, legislature, other*)
- **Staffing** (*expertise of the analysts*)

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

WHAT: Decision Making Factors

- **Scope and Threshold for Review**
 - array of facilities and services
 - level of detail to be considered
- **Community Need**
 - population-based methodologies
 - utilization of existing and proposed services
 - service area
- **Financial Feasibility**
 - comparative cost of proposal
 - projected cash flow and sources
 - anticipated financing charges

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

WHAT: Decision Making Factors (cont'd.)

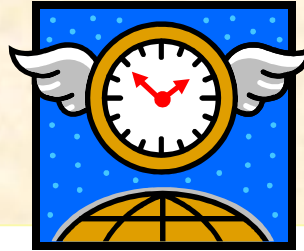
- **Alternatives Considered**
- **Uncompensated Care**
 - fair share of charity care and write-offs
 - safety net responsibilities
- **Character and competence of applicant**
 - past performance at other locations
 - credentials and experience in related services
 - other business and ethical considerations

. . . similar to a banker's business plan requirements . . .

QuickTime™ and a
TIFF (Uncompressed) decompressor
are needed to see this picture.

WHAT: Decision Making Factors (cont'd.)

- **Community Input**
 - public hearings
 - community visits and meetings
 - focus groups, surveys, assessments
- **Special Considerations**
 - barriers to access (geographic, cultural, other)
 - education and training programs
 - clinical trials and testing
 - special populations
- **Conditions**
 - monitoring and reporting utilization
 - relationships and affiliations



WHEN: Decision Making Timeframes

- **Individual Review Tracks**
 - stand-alone processing with overlapping reviews
- **Batch Processing by Type**
 - competitive applications for similar services
 - RFP-type proposals responding to Plan
- **Grouping by Review Cycle**
 - calendar-based fixed decision date schedules
 - full vs. expedited reviews
- **Post-Decision Monitoring**
 - change in scope of service
 - cost overruns



WHERE: Decision Making Venues

- **Judicial-like Hearings**
 - evidence-driven presentations
 - cross-examination by interested parties
- **Public Meeting Format**
 - solicitation of public opinion and concerns
 - response to questions and inquiries
- **Electronic vs. Paper Processing**
 - use of computer templates and forms
 - submission of applications via CD/DVD/Internet
- **Negotiations**
 - cooperative attempts among competing interests
 - modification of proposals in size, scope, location, other



CON: **Effective** Community **Regulatory** Tool

- Planning-based, analytically-oriented, fact-driven
- Open process, with provision for direct public involvement
- Structured to compensate for market deficiencies and limitations and foster market efficiency
- Designed to highlight and accentuate quality
- Promotes economic and quality competition within the context of health care market realities
- Practical and educational rather than ideological
- **Doorway to excellence** rather than barrier to market entry

Certificate of Need: Protecting Community Interests

